IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.10803 OF 2004

Smt.Geeta Mahesh Dhanwani : Petitioner
(Orig. Defendant)

V/s.

Shri Lalchand Pattumal Dhanwani & Ors. : Respondents
(Orig. Plaintiffs)

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Mr.Umesh Mankapure for the petitioner.

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CORAM : S.A. BOBDE, J.

June 16, 2005.

P.C.:

1. The petitioner has challenged the grant of an injunction by two Courts below to the respondents. The respondents-plaintiffs are her father-in-law, mother-in-law, and brothers-in-law. The respondent nos.6 to 8 are the children of the respondent no.5. The respondents applied for a temporary injunction restraining the petitioner from entering into their house since the petitioner and her husband have been given a flat in Anant Apartment. It appears from the prima facie case accepted by the trial Court that the respondent no.1 has been given a flat in Anant Apartment for separate residence. The

reason seems to be some acrimony between their son and their daughter-in-law, who is the petitioner. In fact, the petitioner has filed a private complaint under section 498A of the I.P.C. and has also initiated proceedings for maintenance against her husband in the Family Court. The husband of the petitioner has himself stated on oath that he is not staying in the house of the respondent no.1 i.e. his own father, but he goes there only to make inquiries about his health. It appears that Kabuli Patra has been executed making certain family arrangement under which arrangement the flat in Anant Apartment where the petitioner is presently staying has been given to her husband and the rights in the business has also been transferred in his names. As regards the suit property, the Courts below have come to the conclusion that the suit property is the self-acquired property of the petitioner, but has come to her husband and the property exclusively vests in him. Having regard to the fact that the petitioner's husband himself having admitted that a flat in Anant Apartment has been transferred in his name for his residence, the Courts have granted an injunction to the respondents.

2. Now, it is clear from the orders of the Courts below which are based on cogent and reliable material that the

petitioner is in no way being deprived of a matrimonial home but is admittedly staying in a flat given to her husband by his father i.e. the respondent no.1. In the circumstances, it is clear that the petitioner is not being injuncted from settled possession of any property. In the circumstances, I am not inclined to interfere with the concurrent findings of the Courts below.

3. The petition is hereby dismissed.

Sd/-

S.A. BOBDE, J.